UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA,

:

v. : Case No. 2:14 CR 77-1

:

MICHAEL J. FORESTE

ORDER

The Report and Recommendation of the United States

Magistrate Judge was filed September 25, 2019. After careful
review of the file and the Magistrate Judge's Report and
Recommendation, no objections having been filed by any party,
this Court ADOPTS the Magistrate Judge's recommendations in
full for the reasons stated in the Report.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F. Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

The motion under 28 U.S.C. §2255 to vacate, set aside or correct a sentence(Doc. 341) is DENIED.

The court declines to issue a certificate of appealability, which may issue in a §2255 proceeding "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. §2253(c)(2). Generally,

a movant meets this burden by demonstrating that "reasonable jurists could debate whether...the [motion] should have been resolved in a different manner or that the issues presented [a]re adequate to deserve encouragement to proceed further." Slack v. McDaniel, 529 U.S. 473, 484 (2000) (internal quotation marks omitted). Mr. Foreste has not made a showing, and thus the court will not issue a certificate of appealability.

SO ORDERED.

DATED at Burlington, in the District of Vermont, this $22^{\rm nd}$ day of October, 2019.

/s/ William K. Sessions III William K. Sessions III District Court Judge